

**Statement of Henry A. Waxman**  
**Full Committee Mark-up**  
**December 15, 2005**

Today, the Committee will consider the most sweeping change in decades to our nation's efforts to protect the food supply.

H.R. 4167 would eliminate virtually every state and local law that provides greater consumer protection than our limited federal food laws. It is a radical change in the law.

But this radical change has never been discussed in even a single hearing. Groups like the Association of Food and Drug Officials or the National Association of State Departments of Agriculture have never had an opportunity to testify about why they are so strongly opposed to this bill. We've never brought in the Texas Department of State Health Services, the Wisconsin Secretary of Agriculture, or the California Attorney General to learn why they too are so strongly opposed to this legislation. Instead of a hearing record, the Committee is operating on a foundation of lobbyists' whispers and off-the-record promises.

If H.R. 4167 becomes law, 80 different laws in 37 states—laws that were democratically enacted to serve the unique food safety needs of each state— would be repealed overnight, even though this Committee doesn't have a scrap of evidence in the record as to why that might be a good idea.

States are the primary guardians of food safety for our nation. State and local governments conduct approximately 80% of food safety work based on state laws. FDA relies heavily on the states to carry out food safety activities under these state laws, and even to ensure the safety of imported foods.

Despite the repeated warnings of State officials that this bill will paralyze the states' ability to respond to bioterrorist threats to the food supply, the Committee seems intent on dismantling the very state and local laws that represent our first line of defense against a food-borne bioterrorism attack. The Association of Food and Drug Officials recently cautioned that this legislation would "handcuff" the first responders who deal with food terrorism threats. The National Association of State Departments of Agriculture said in a letter to this Committee, that our current food safety system "forms the first line of defense against the growing threat of a terrorist attack against our nation's food supply" and cautions that preempting state and local food safety programs would leave a "critical gap in the safety net that protects consumers."

I couldn't agree more. It is dangerous and irresponsible to leave a "critical gap" in our food safety defenses at any time, but especially now.

One of the primary goals of this bill is to repeal California's Proposition 65. This food safety law requires consumers to be notified when they are exposed to toxic substances. This is a common sense approach that creates market incentives to reduce risks to consumers. It has been backed by Democrats and Republicans across the political spectrum, and it has resulted in safer drinking water and a host of safer consumer products. My personal view is that Prop 65 has been a major success. But even if you disagree with me, do you think it really makes sense to preempt every state law that provides consumer protection for food?

For years I've heard my Republican colleagues preach the importance of state rights and denounce a federal one-size fits all approach. But now, with no record, no Subcommittee debate, with no real understanding of the consequences, the Republican majority wants to eviscerate state rights and have a one-size federal approach.

Their legislation is opposed by dozens of governmental, public health, and environmental groups. They warn us that this legislation is a dangerous give-away to special interests and ignores the enormous benefits of strong state consumer protection laws. It is bad for states and, most important of all, it is bad for American families.

I urge you to oppose this ill-conceived bill.